

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

## **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$2,467.71 for date of service 10/08/01 through 12/07/01?
- b. The request was received on 02/05/02.

## **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60 and Requestor Rationale for Dispute Resolution on Table of Disputed Services
  - b. HCFA(s)
  - c. TWCC 62 forms
  - d. EOBs from other carriers
  - e. Medical Records
  - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. TWCC 60 and Response to a Request for Dispute Resolution dated 05/10/02
  - b. HCFA(s)
  - c. TWCC 62 form
  - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 04/29/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 05/02/02. The response from the insurance carrier was received in the Division on 05/14/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor:
  - a. “We feel that we are due further reimbursement for the durable medical equipment that we provided this patient with. All items were billed at a Fair and Reasonable rate and should not have been reduced. We are now requesting Additional payment in full with interest.”
2. Respondent:
  - a. “The Requestor has provided no evidence of the method used to determine the fair and reasonable rate, other than to declare the equivalency of that standard to their actual charges. Furthermore, the selective description of circumstances where other carriers may have, on occasion, paid full charges is wholly inadequate to establish a fair and reasonable rate. ‘Showing what other {Providers} may have been paid by other carriers fails to achieve effective medical cost control and fails to present evidence of amounts paid on behalf of managed care patients of {Providers} or on behalf of other non-workers’ compensation patients with an equivalent standard of living.’ Consolidated SOAH Docket Nos. 453-01-1179.M4, 453-01-1262.M4 and 453-01-1263.M4, Finding of Fact 20.”

### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 10/08/01 through 12/07/01.
2. The provider billed \$7,657.50 for the dates of service 10/08/01 through 12/07/01.
3. The carrier reimbursed the provider \$5,189.79 for the dates of service 10/08/01 through 12/07/01.
4. The amount in dispute is \$2,467.71 for the dates of service 10/08/01 through 12/07/01.
5. The denial codes on the submitted EOB are M-“NO MAR SET BY TWCC-REDUCED TO FAIR AND REASONABLE ALLOWANCE WITHOUT SUPPLY HOUSE INVOICE. G-UNBUNDLING.”
6. The following table identifies the disputed services and Medical Review Division's rationale:

| DOS      | CPT or Revenue CODE | BILLED   | PAID     | EOB Denial Code(s) | MARS (Maximum Allowable Reimbursement) | REFERENCE             | RATIONALE:  |
|----------|---------------------|----------|----------|--------------------|--|-----------------------|---|
| 10/08/01 | L0510               | \$300.00 | \$282.25 | M                  | DOP                                    | TWCC Sec. 413.011 (d) | The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended. |
| 10/17/01 | E0245               | \$103.00 | \$36.32  | M                  | DOP                                    | TWCC Sec. 413.011 (d) | The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended. |
| 10/17/01 | E1399               | \$112.00 | \$85.00  | M                  | DOP                                    | TWCC Sec. 413.011 (d) | The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended. |

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| 10/17/01 | L0430 | \$1,800.00 | \$1,374.97 | M      | DOP   | TWCC<br>Sec. 413.011 (d)                    | The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended. |
| 10/17/01 | E0930 | \$67.50    | \$47.67    | M      | DOP   | TWCC<br>Sec. 413.011 (d)                    | The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended. |
| 10/17/01 | 97500 | \$100.00   | \$48.00    | No EOB | \$24.00<br>(initial 30 minutes, each visit) | MFG MGR;<br>(I)(A)(10)(d)<br>CPT descriptor | In the requestor's dispute packet, there is no documentation to determine the amount billed for the orthotics training. According to the CPT Code descriptor 97500, the billed amount of \$50.00 for 3 units is not in accordance with the descriptor. The initial 30 minutes, each visit, are to be billed in the amount of \$24.00. The carrier has already reimbursed the provider according to the CPT descriptor. Therefore, additional reimbursement is not recommended.  |

## MDR: M4-02-1975-01

|          |       |            |            |   |     |   |   |
|----------|-------|------------|------------|---|-----|---|---|
| 10/25/01 | E0748 | \$5,000.00 | \$3,200.00 | M | DOP | TWCC<br>Sec. 413.011 (d)  | The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended.   |
| 10/25/01 | E1399 | \$40.00    | \$20.00    | G | DOP | TWCC<br>Sec. 413.011 (d)<br>MFG DME;<br>(X)(C)<br>MFG GI;<br>(VI) | According to the MFG DME E1399 (suspenders) are not global to E0748 as listed in the Rule referenced. "CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate." The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended. |

MDR: M4-02-1975-01

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|----------------------|-------|--------------------|--------------------|--------|-----|--------------------------|---|
| 11/17/01<br>12/07/01 | E0930 | \$67.50<br>\$67.50 | \$47.79<br>\$47.79 | M<br>M | DOP | TWCC<br>Sec. 413.011 (d) | The provider's only evidence of fair and reasonable is by submitted EOBs from other insurance carriers. The burden remains on the provider to prove that the amount of reimbursement is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended. |
| <b>Totals</b>        |       | \$7,657.50         | \$2,467.71         |        |     |                          | The Requestor <b>is not</b> entitled to reimbursement.  |

The above Findings and Decision are hereby issued this 11<sup>th</sup> day of June 2002.

Michael Bucklin, LVN  
Medical Dispute Resolution Officer  
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.